

## **The Results of the Nationwide 4<sup>th</sup> Annual ISP Survey**

**(October 31<sup>st</sup>, 2002)**

**Presented by**

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## FACT SHEET AND FINDINGS

This document contains material from the Nationwide 4<sup>th</sup> Annual ISP Survey, conducted October 2002.

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• Testimony Presentation from the ISPs about Service Problems.	4
• Presentation from ISPs of the overall industry issues.	7

### *Summary of Responses*

- **53 responses**
- **31 States Represented** National, AR, AZ, CA, CO, FL GA, ID, ILL, Indiana, KS, KY, LA, MA, MO, MI, MT, New Jersey, NE, NM, NV, New York, ND, OH, OK , OR, SD, Texas, UT, WA, WI, WY,
- **ISP Used 32 Different CLECs** Adelphia, Allegiance, AMA, ATT, Birch, Cinergy, Covad, DSL.Net, Electric Lightwave, ELI, El Paso Networks, ESPIRE EPGN, Focal, ICG, IPCommunications, IP Networks, KMC, Madison River, MCI, Mpower, McLeod, New Edge, Nuvox, Nas, NewSouth, PacWest, TexLink, Time Warner, USLEC, Williams, XO,

### **Rating the Bells' Performance**

- **4.3** (On a scale of 1 to 10) **is the Overall rating** for the Bell companies -a failing grade

### **Offering DSL**

- **60% of Respondents offered ADSL or DSL**
  - 40% offer DSL only through a CLEC
  - 30% through a Bell or ILEC
  - 30% offer both.
- **40% Did Not offer DSL** – the largest reason --- The price from the Bell company was 'predatory'. –
  - **at least 30%** of ISPs stopped offering DSL because it was not profitable..

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One Texas ISP wrote

“We tried reselling Bell DSL but stopped because SBC pricing guarantees no one, even an efficient and profitable ISP such as XXX, can make money reselling DSL. Then there is the ordering process, which is a guaranteed time waster for your staff and insures that if we made any profit reselling DSL, you then lose it through the ILEC's laborious ordering process. We dropped DSL in May as just about ALL ISPs.”

## How Many Orders Have Problems?

On average, **30% of all orders have problems**, with the majority reporting the number to be 40% of all orders. (This is for either DSL and ADSL using a competitor or using a Bell company's 'line-sharing'.)

## Who's At Fault When Problems Occur?

The Bell cause 80% of all problems, the CLEC 10% of the time and 10% of the blame can't be determined. (rounded)

- 80% bell companies
- 10% CLECs
- 10% I don't know

## The Networks Are NOT Open to ISPs.

- **88% Believe the networks are “almost closed or “closed”.** Only 12% believe that the networks are “almost open”. NO ISP believes that the networks are fully open.

## Page 4 ----Provides ISP Answers to the Following Question:

4) Which of these statements best describes your view of the local phone service.

- \_\_\_\_\_ Service is great. I'm happy.
- \_\_\_\_\_ Service is OK --- some problems, but they get fixed quickly
- \_\_\_\_\_ Service isn't OK, ---- lots of problems that do not get resolved quickly or easily.
- \_\_\_\_\_ Service is Terrible--continuous problems and they cost our company money and time.

## Page 7--- Provides ISP Answers to the Following Question:

5) If you could say something to a regulator or the press about the Bells impact on competition and your business, what would it be?

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\_\_\_\_\_ Service is terrible--continuous problems and they cost our company money and time.

### State            Rating

TX            Service isn't OK

SBC has slammed our customers; told them that they can ONLY get ADSL service from SBC; told them that XXX in particular can not provide ADSL to them; charged us a rate approximately the same that they charge SWBIS, but then provided additional funds to SWBIS so that they can provide anti-competitive pricing and promotions; not fixed problems with ordering for a two and a half month time holiday time period (when SWBIS ordering worked like a charm); charged extra fees, and generally increased the time frame for switching customers from SWBIS to XXX while providing no cost transitions at zero time to change from XXX to SWBIS; numerous other things that I could spend the next two hours typing in here, that have been to no avail in the past, so I am not going to do it again. If you want full records with names/dates/places, call me.

CA            Service isn't OK

Problems happen too often. When they do happen, SBC is unable to resolve them quickly. There seems to be absolutely no accountability within the organization. Billing problems are continuous and eat up hours of staff time each month.

UT            Service is Terrible

Constant billing errors, every order we put through we have some problem with, even the order system is a 50/50 chance that it will work when you need it to, service techs tell our customers stories to make trouble with our new clients or to steal them away

CA            Service is Terrible

Most installations require at least one trouble ticket. Technicians either are a no show or go to the client site without calling first, as we always instruct them to do. They will leave a note that they missed them, when it was their fault for not calling first to arrange for the person to meet them at the location. Very often there is something that one aspect of the system or process that they forgot, and didn't complete, thus the trouble.

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UT Service is Terrible

Many, many DNS problems, poor interoperability with other customers, Qwest would periodically stop serving any names within what appeared to be \*only\* our domain. Ticket after Ticket, and no resolution, no call back, no nothing just unhappy customers because customers of Qwest.net couldn't send email to my customers.

CA Service is Terrible

The Bell monopolies are doing their best to put us out of business. They are doing this in a systematic way, and they seem to have the support of Federal Regulators in doing this.

Many states Service is Terrible

They compete with us trying to take away the ISP portion of DSL, Snail-Mail subscribers with prices undercutting the ISP. They won't discount to us yet we have to buy QWEST DSLAMS

LA Service is Terrible

Last month I had 23 outages on 8 T1's

TX National Service isn't OK

In most cases orders that are rejected by WorldCom are due to poor loop qualification tools in use by the CLECs and the fact that the CLEC does not have direct access to the TELCO records to perform loop qualification. Orders that the ILEC has shown to be qualified for service end up being rejected days later by the CLEC.

CA, National Service is Terrible

PAC BELL/SBC has cost us more business than we have ever gained via our relationship with them. We have moved toward taking all our clients from PAC BELL/SBC because of the way they continue to do business, our problems have been so large we have invested many hours and dollars in complaints with the CPUC and other agents that is just not good business to deal with them anymore, All the rules of the game clearly benefit the LEC and not US or the consumers.

CA If you are referring to the dialtone service, I think things are great. If you are talking digital services, they suck. Getting better, but from a reseller standpoint, it sucks.

CA, NV Service isn't OK

Certain circuits have had so many problems that CLEC gives up on end-user. Unclear if this is because of truly crappy plant (thus why Bell doesn't provide DSL there), or if Bell chooses to give worst circuits to CLEC in that CO.

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TX     Service is Terrible

SBC actively inhibits the sales of our products. They claim there are no pairs where there clearly are pairs available

Once service is up, it runs reliably. However every step up the way before circuit "turn up" is a guaranteed money loser, both from Bell ineptness and Bell anti-competitiveness.

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### 5) If you could say something to a regulator or the press about the Bells impact on competition and your business, what would it be?

<b>State</b>	<b>Comment</b>
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CA	PacBell stifles competition. They have been known (personally) to sign a contract with an ISP for a threshold pricing program and then shortly thereafter lower the street price to the public for those that sign on directly leaving the ISP with install costs and circuit costs with no possible opportunity to sell the service
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NY	Bells use their financial muscle to systematically stifle competition where it makes it impossible to operate Verizon's DSL Predatory Pricing is a competitive problem
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UT	Telephone companies work hard to undersell Internet access below cost to drive Independent ISP's out of Business
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The local Qwest is an un-regulated, monopoly. Either regulate it to act as a wholesaler only, and prevent it from going behind it's retailer back and selling to customers direct.

TX	They have the money and staff to lobby for favorable legislation that results in their guaranteed market share
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National	Cost of DSL is still prohibitive. Exceptions to provisioning process and scaling e-bonding have been difficult. Constant changes to interfaces with minimal notification. Required to have ATM connections in every LATA, even where the ILEC has 271 relief. Remote terminal addresses have been available according to SBC all year, but not provided. Reduction of loop lengths with no data and less than 30 days notice in SBC, costing millions in direct mail that was previously sent out.
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The FCC needs to understand that the Bells, particularly SBC, are attempting to eliminate all competition from independent ISPs and to eliminate all margin in the ISP business by overcharging for the last mile component of Broadband. This is keeping the price of Broadband internet access above the price that most consumers will pay. It will stay that way indefinitely while SBC does what monopolies do: protect its entrenched high margin business. The FCC has been asleep at the switch and is not playing the necessary and traditional watchdog role, particularly in terms of pricing and anticompetitive conduct in illegal cross subsidization.

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CA My company is being picked apart by AT&T who won't let me have access to the cable network, and SBC who sells me wholesale DSL at a price above their own retail offering.

CA I would explain how the billing from both Pac-Bell and Verizon are the worst I have ever seen. And trying to get them to issue credits is like pulling teeth.

TX They are killing the competition US (ISP) and the CLEC

TX They use long term contracts to lock you into prices that are not competitive

UT Telephone companies work hard to undersell Internet access below cost to drive Independent ISP's out of Business

They've lied to us at the beginning, they've played games with us and our customers, they make ordering service difficult, they've given us billing headaches and constant problems with that, they tell our customers we have inferior service trying to steal them from us while in the middle of an installation, they are trying to put all the local ISP's out of business

KY Bell's own in-house ISPs maintain quite an advantage over independent ISPs in regards to marketing through combined access to their existing telco client base, access to service and support personnel not available for troubleshooting and repair to independent ISPs, pricing based on DSL costs moving from one pocket to the other, and access to internal telco client information when in fact, the Bell.Nets are supposed to be dealt with at an arm's length as separate entities subject to the same hurdles as an independent ISP.

For an example of how the pricing is manipulated, do the math: DSL transport "loops" from BellSouth cost our ISP \$33/month and BellSouth.Net is supposed to pay the same. DSL activation costs our ISP \$60 for each loop while BellSouth.Net also supposedly pays the same. BellSouth.Net sells DSL at \$45/month to customers who have the "complete choice package" on their telephone service. This represents a \$12 monthly margin or, a total of \$144 annual margin. Out of that \$144, how does BellSouth.Net waive the activation fee for their customers, thereby reducing the margin to \$84/year, and then also provide free modems (as they frequently do) which would seem to effectively eliminate any margin at all? At the same time they're able to run expensive ad campaigns, pay for a T1's worth of bandwidth to each customer, maintain technical support, and cover their administrative expenses. The numbers clearly indicate the LEC must be cross-subsidizing it's own in-house ISP out of deep pockets filled by years of supported monopolistic control over the telco network.

It's not just the LECs that have gained an upper hand through failed government



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oversight though, the general attitude that healthy competition exists as long as the cable companies and the Bell's are "competing" with one another for broadband services is NOT legitimate. Legislation and rule making based on this attitude is extremely harmful to the well-being of independent ISPs across the country as it pits the LECs versus the cable companies at the expense of the independent ISPs who have historically "made" the Internet what it is today.

The greatest mistake ever made at the federal level, which still applies (and could be reversed) to this very day, was the fact the cable companies were not defined as "telecommunications carriers" as defined in the '96 telecom act. Because of this, the cable companies were not held to the same open network and competition standards as the Bells. Locally, I can order Internet access, telephone service, and TV all on one cable from my provider. How is that not a telecommunications carrier and why are they not forced to sell Internet transport to competing ISPs or voice transport to competing CLECs over the local cable network, when the city granted a monopoly to them oh-so many years ago?

TX

I tried to fill out the survey but the questions did not really seem to be getting at the problem. We sell DSL via ILEC lines and facilities.

Their service is adequate, sometime excellent. Their pricing is such that without charging significant premiums, we can't make money.

There is certainly unfair competition, but almost impossible to quantify in any real sense. The fundamental problem, one which the FCC's apparently intent on magnifying, is that the ILECs and cable companies control all local access, based on facilities developed while these companies were legislated monopolies. No set of rules will change this. There are too many ways that the ILECs can bend the rules, slow down delivery, etc.

The only long term approach is to build a real, accessible, market around local access. Then the wire provider will want to sell access, the normal economic mechanism, instead of the current situation where the wire provider does the best it possibly can to not sell access.

This is possible with strong outside competition (wireless appears to be the only viable alternative here). The only other alternative is treat the infrastructure as a public asset in the same way energy deregulation does, by separating distribution from delivery and generation. That is, a new set of regulated monopolies manage and repair the transmission infrastructure, and the (completely independent) providers sell services (voice, data, TV, etc) over this infrastructure, buying wire access in competition.

I don't believe this apparently socialist but actually extremely capitalist approach could ever be achieved in the current political environment. Instead, we have to deal with completely anti-competitive practices from SBC and Verizon such as refusing to install Hicap UNEs because pairs and smartjack shelves are not currently installed at the customer premises ("no facilities"). But only in states where the ILECs have already been granted long-distance access

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TX We as both a CLEC and ISP struggle to compete with SBC, the regulatory climate and the procedure process is hostile—especially when it comes to facilities-based services. RBOC's are heavily lobbying and influencing the FCC to stop deregulation in regards to broadband and sharing lines. Ultimately the real losers will continue be American consumers.

NY The bells need to treat ISP as partners, help correct issues quickly and leave room for margins

KS Without making the cable companies open up their networks, Bell is still the only existing infrastructure we have to get our services out to our customers. Bell dictates the access to their networks, and then they compete against us.

Kentucky, Indiana BellSouth's ISP service was advertised to be a separate business from their core. They were not to have competitive advantage is the area of DSL - that simply is not the case. They have Bells ear, they are on every BellSouth web page, they know about new area DSL roll outs long before that information is available to other providers.

a) Customer satisfaction., b) Profit, c) Image

I know this sounds like pretty simple stuff. Well it is. It's what I sweat bullets over everyday. However in the area of DSL - BellSouth.NET knows before I do when BellSouth.COM plans to open a new service area. My DSL provisioning takes days longer than BellSouth.NET. My cost are well above what BellSouth.NET offers as a standard price. It's very hard to have satisfied customers, make a profit and maintain a positive corporate image in these circumstances. We'll likely be changing our business model in the near future due to the practices of our Telco provider.

CA They are still operating as though they were a monopoly. They have not reorganized in an efficient manner. Then they pass on the unnecessary costs to us and complain that they need breaks to compete. When if fact, they are the ones that don't know how to operate in a competitive market. They take advantage of their publicly subsidized infrastructure and ineptitude to put us out of business and recreate their monopoly position.

UT Qwest has literally been pumping and pushing DSL through MSN. We have received no referrals. It has been truly unfair. There is an 8% tax that Qwest tacks on the bill of DSL subscribers that they don't tell anyone about and they are angrily and then call us as their ISP. Qwest reps lie (without realizing it) and tell customers (as I'm sure they've been trained to do that they are required by the FCC to \*charge\* that to their customers. This is simply not true. Qwest is required to pay an 8% tax mandated by the FCC and the FCC has \*allowed\* Qwest to pass that on to the

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customer, the FCC DID NOT mandate that Qwest pass that on to the customer.

New York With their illegal profits (and accounting) the Bells have destroyed our industry and are now looking to be rewarded for that under the guise of "deregulation". Please look at any other "deregulated" monopolistic industry for precedents. The consumers lose.

CA The FCC is not just failing to act. The FCC is an actively working to put us out of business by attempting to provide safe haven for SBC and Verizon anticompetitive activities. For example, approving SBC's DSL tariffs without cost support, and without proper notice, not creates an appearance that the FCC is endorsing SBC's anticompetitive actions, and makes it hard for us to either sue or take action at the CPUC level. The FCC is hostile to competitors (that's us). We would be better off if the FCC were simply disbanded.

Texas Separate cable plant from marketing to place companies on equal footing

LA Generally good, but their own ADSL service is not operated ..... at arm's length, as it should be.

TX, OK Extremely anti competitive, they do not care about quality of service, they will sell below cost to public to keep competitors out of the market, they do not care if they have to pay fines it is just a cost of doing business. They ignore the law, they feel they are big and above the law.

MA FCC has consistently overlooked Verizon abuses and anti- competitive practices, and has green-lighted their monopolistic expansion in all areas of telecommunications.

The effectiveness of the State Commissions has been undermined by the FCC.

National There is no competition as far as the Bells are concerned .. they have driven LAW to there best advantage, small to medium sized ISP's have been left completely out of the process and our Government has completely lost sight of the vision of broadband to the consumers and are playing right into the hands of the Bells

CA Very non responsive to ISP needs. Very obvious they wish we would go away.

CA I often do talk to the regulators and the Bells, and what I have to say is this: Lower the wholesale rate for end user DSL circuits, roll out more RTs, give access to the RTs for CLECs, and raise your retail rates to be more competitive with market pricing.

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ILL Have them study why the Interstate Commerce Commission was ineffective and useless and ultimately a drag on the US Economy when trying to control/regulate transportation industry. This is what the FCC is to us now. They are very useful in enforcing a regulated monopoly and remove all power from the state regulators.

CA, NV \_\_\_ There is not enough enforcement or attention to complaints from CLEC or ISP. These complaints should be given a high interest by regulators, as they indicate a critical failure of the competitive environment

TX Bell uses all of the various rules, regulations, tariffs, etc, (or lack thereof) to manipulate the availability and pricing of their service. No matter what they say, they still have to ability to monopolize service if they want to, which of course they do.

TX I feel honored to purchase a line for 2 dollars less a month than the consumer can on special. I am sure I can grow a healthy business that way

TX The Bells have monopolized residential DSL and are charging outrageous rates for other telephone services, like T1s, that keep us from selling to larger customers effectively. An example... SBC sells T1s for a minimum of \$360 per month if both ends of the T1 are served by the same CO. We regularly buy T1s from a CLEC that have ends in different cities (Austin and San Antonio for instance) that only cost us \$185 per month. Unfortunately, many places can only get service from SBC. So, in those places, the cost of the line causes the cost of the service to be prohibitive.

I have little confidence in the Press to report this open and obvious disregard of the Law and the Regulators see the political power of the ILEC's both at the state and federal level and realize that the ILECs' will litigate endlessly whatever the Regulators decide. Delay is on the side of the ILECs and not a startup/CLEC o ISP